

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JOHN RICHARD ANDERSON**

**Plaintiff**

**V.**

**CONTINENTAL WESTERN  
INSURANCE COMPANY, BERKLEY  
NATIONAL INSURANCE COMPANY  
F/K/A UNION STANDARD INSURANCE  
COMPANY, AND CHRISTOPHER  
LEE MICHELS,**

## Defendants

**CASE NO. 5:17-CV- 00222-M-BQ**

**DEFENDANT CHRISTOPHER LEE MICHELS' MOTION TO DISMISS**

Defendant Christopher Lee Michels (“Michels”) files this Motion to Dismiss, asserting that Plaintiff’s Original Petition fails to state a claim upon which relief can be granted against him and that Plaintiff’s claims against Michels for alleged violations of the Texas Insurance Code § 541.060(a)(1) should be dismissed pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure. Further, Michels moves the Court dismiss the claims against him for violations of Texas Insurance Code §§ 541.060(a)(2)(A), 541.060(a)(3), 541.060(a)(4), and 541.060(a)(7) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

As detailed in Michels' contemporaneously filed Brief in Support of this Motion, Michels asserts that Plaintiff has not sufficiently pleaded claims against him on which this Court can grant relief to Plaintiff. Accordingly, this Court should dismiss Plaintiff's claims against Michels for misrepresentation pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6). Specifically, Plaintiff's claim Michels violated Texas Insurance Code § 541.060(a)(1) and

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Plaintiff's claim Michels misrepresented "material facts relating to the coverage at issue" should be dismissed pursuant to Rules 9(b), and 12(b)(6) of the Federal Rules of Civil Procedure. *See* Doc. 1-2 at 9, ¶37. Michels further contends Plaintiff fails to assert sufficient facts supporting all the essential elements of all causes of action against him for alleged violations of the Texas Insurance Code, thereby failing to assert claims against him upon which relief may be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant Michels respectfully requests dismissal of Plaintiff's claims against him for violations of the Texas Insurance Code as stated in Plaintiff's pleading and for any such other and further relief to which it may be justly entitled.

Respectfully submitted,

/s/Jennifer G. Martin

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STANDARD INSURANCE COMPANY, AND  
CHRISTOPHER LEE MICHELS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record in accordance with the Federal Rules of Civil Procedure, on this 29th day of September, 2017.

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